

No. _____

In the
**Supreme Court of the United
States**

GLENN LAIRD,

Petitioner-Applicant,

v.

UNITED TEACHERS LOS ANGELES, AN
EMPLOYEE ORGANIZATION; LOS ANGELES
UNIFIED SCHOOL DISTRICT, A POLITICAL
SUBDIVISION OF THE STATE OF CALIFORNIA; ROB
BONTA, IN HIS OFFICIAL CAPACITY AS ATTORNEY
GENERAL OF CALIFORNIA,

Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF
CERTIORARI**

Timothy R. Snowball
Counsel of Record
Shella Alcabes
Freedom Foundation
P.O. Box 552
Olympia, WA 98507
(360) 956-3482
tsnowball@freedomfoundation.com
salcabes@freedomfoundation.com

*Counsel for Petitioner-
Applicant*

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

The Ninth Circuit Court of Appeals issued a decision in Petitioner-Applicant Glenn Laird's case on October 23, 2023, affirming the district court's order dismissing Petitioner-Applicant's claims (Exhibit A), and issued its order denying rehearing en banc on December 12, 2023 (Exhibit B).

The Petition for Writ of Certiorari is due in this Court no later than March 11, 2024. As required, this application precedes that date by more than 10 days. This Court has jurisdiction under 28 U.S.C. § 1254.

Pursuant to Supreme Court Rule 13.5, Petitioner-Applicant respectfully requests an extension of 30 days to file his Petition in this Court. Granting this application would extend the deadline for the filing of the Petition to April 10, 2024.

This case raises important federal questions regarding public employees' First Amendment right to

decline to subsidize the political speech of public sector labor unions. Specifically, the forthcoming Petition concerns whether the affirmative consent and constitutional waiver standard this Court laid down in its landmark decision in *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 138 S. Ct. 2448, 2486 (2018), applies to former union members who previously consented to deductions, but have since withdrawn their consent, or whether it only applied to agency fee payers under regimes which no longer exist. This issue has become the subject of a circuit split between the Ninth, and Seventh, Sixth, and Third Circuits.

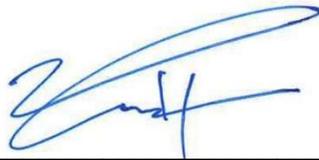
Petitioner-Applicant's Counsel of Record has had extensive litigation duties during the preparation period for the Petition, including preparing for two oral arguments scheduled before the Ninth Circuit in *Craine v. Am. Fed'n of State, Cnty et al.*, No. 22-03310 (C.D. Cal. 2023), *appeal docketed*, No. 23-55206 (9th Cir. Mar. 6, 2023), and *Bourque, et al., v. Engineers*

and Architects Association, et al., No. 21-04006 (C.D. Cal. 2023), *appeal docketed*, No. 23-55369 (9th Cir. Apr. 20, 2023), preparing an opening brief at the Ninth Circuit in *Klee v. International Union of Operating Engineers, Local 501, et al.*, No. 22-00148 (C.D. Cal. 2023), *appeal docketed*, No. 23-3304 (9th Cir. Nov. 3, 2023), and preparing and filing a first amended complaint in *Baker v. CSEA, et al.*, No. 23-02857 (E.D. Cal. filed January 29, 2024).

Due to these time constraints, and in order to cogently prepare the pending Petition, Petitioner-Applicant respectfully requests an order be entered extending his time to file for a Petition for Writ of Certiorari by 30 days, up to and including April 10, 2024.

DATED: February 21, 2024.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'Timothy R. Snowball', written over a horizontal line.

Timothy R. Snowball

Counsel of Record

Shella Alcabes

Freedom Foundation

P.O. Box 552

Olympia, WA 98507

Telephone: (360) 956-3482

Email:

tsnowball@freedomfoundation.com

salcabes@freedomfoundation.com

Counsel for Petitioner-Applicant

CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the Supreme Court of the United States that on February 21, 2024, I electronically filed with the Supreme Court of the United States the foregoing document, Application for Extension of Time to File Petition for Writ of Certiorari, and caused a true and correct copy of the same to be delivered via e-mail pursuant to an e-service agreement to the following:

Mr. Scott Kronland,
CA SBN #171693
Attorney
177 Post Street,
Suite 300
San Francisco,
CA 94108
skronland@altber.com

Ms. Connie Michaels,
CASBN #128065
Esquire
2049 Century Park, E
Los Angeles, CA 90067
cmichaels@littler.com

Mr. Ira Gottlieb,
CA SBN #103236
Attorney
801 N Brand Boulevard
Suite 950
Glendale, CA 91203
igottlieb@bushgottlieb.com,
ldemidovich@bushgottlieb.com,
ltaylor@bushgottlieb.com

Ms. Kristin Liska,
CA SBN #187291
Deputy Attorney
General
455 Golden Gate
Avenue
San Francisco, CA
94102
kristin.liska@doj.ca.gov



Timothy R. Snowball

EXHIBIT A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 23 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GLENN LAIRD, individual,

Plaintiff-Appellant,

v.

UNITED TEACHERS LOS ANGELES, a
labor organization; LOS ANGELES
UNIFIED SCHOOL DISTRICT, a political
subdivision of the State of California; ROB
BONTA, in his official capacity as Attorney
General of California,

Defendants-Appellees.

No. 22-55780

D.C. No.

2:21-cv-02313-FLA-AS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fernando L. Aenlle-Rocha, District Judge, Presiding

Submitted October 19, 2023**
San Francisco, California

Before: W. FLETCHER, NGUYEN, and R. NELSON, Circuit Judges.

Glenn Laird appeals from the district court's dismissal of his 42 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1983 action alleging that the unauthorized deduction of union dues from his pay violated his First and Fourteenth Amendment rights under *Janus v. American Fed’n of State, Cnty., and Mun. Employees, Council 31*, 138 S. Ct. 2448 (2018). We have jurisdiction pursuant to 28 U.S.C. § 1291 and review de novo. *Wright v. SEIU Loc. 503*, 48 F.4th 1112, 1118 n.3 (9th Cir. 2022), *cert. denied*, 143 S. Ct. 749 (2023). We may affirm on any ground supported by the record. *Ochoa v. Pub. Consulting Grp., Inc.*, 48 F.4th 1102, 1106 (9th Cir. 2022), *cert. denied*, 143 S. Ct. 783 (2023). We affirm.

1. The district court properly dismissed the section 1983 claims Laird alleged against his former union United Teachers Los Angeles (“UTLA”). UTLA did not engage in state action when it relayed the dues authorization to Laird’s former state employer, the Los Angeles Unified School District (“LAUSD”).

Actions by a private actor may be subject to section 1983 liability if the plaintiff can show that the conduct was “fairly attributable to the State.” *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982). To establish fair attribution, two prongs must be met: (1) “the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed the [S]tate or by a person for whom the State is responsible,” and (2) “the party charged with the deprivation must be a person who may fairly be said to be a state actor.” *Id.* Neither prong is met here.

First, assuming that Laird validly revoked his dues deduction authorization in June 2020, UTLA’s request that LAUSD continue making deductions violated state law. *See* Cal. Educ. Code § 45060(a) (“Any revocation . . . shall be effective provided the revocation complies with the terms of the written authorization.”). Thus, UTLA’s alleged misrepresentation was “antithetical to any ‘right or privilege created by the State.’” *Wright*, 48 F.4th at 1123 (quoting *Lugar*, 457 U.S. at 937).

Second, Laird argues that UTLA is a state actor under the “joint action” or “governmental nexus” tests. *See Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1140 (9th Cir. 2012). In *Belgau v. Inslee*, we held that the mere fact that a state transmits dues payments to a union does not give rise to a section 1983 claim against the union under the “joint action” test. 975 F.3d 940, 947–49 (9th Cir. 2020), *cert. denied*, 141 S. Ct. 2795 (2021). Nor would a state employer’s “ministerial processing of payroll deductions pursuant to [e]mployees’ authorizations” create sufficient nexus between a state and a union to subject the union to section 1983 liability. *Id.* at 947–48 & n.2; *see also Wright*, 48 F.4th at 1122 & n.6.

2. The district court properly dismissed Laird’s nominal damages claim against the Attorney General because it is barred by Eleventh Amendment sovereign immunity. We have recognized “that, ‘absent waiver by the State or valid congressional override,’ state sovereign immunity protects state officer

defendants sued in federal court in their official capacities from liability in damages, including nominal damages.” *Platt v. Moore*, 15 F.4th 895, 910 (9th Cir. 2021) (quoting *Kentucky v. Graham*, 473 U.S. 159, 169 (1985)). Laird has not shown waiver by the State or valid congressional override.

AFFIRMED.

EXHIBIT B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GLENN LAIRD, individual,

Plaintiff-Appellant,

v.

UNITED TEACHERS LOS ANGELES, a
labor organization; et al.,

Defendants-Appellees.

No. 22-55780

D.C. No.

2:21-cv-02313-FLA-AS

Central District of California,
Los Angeles

ORDER

Before: W. FLETCHER, NGUYEN, and R. NELSON, Circuit Judges.

The panel has voted to deny the petition for rehearing en banc (Dkt. No. 54) and Judge W. Fletcher has so recommended.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing en banc is denied.